

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

C.R.P(PD) No.4703,4704 & 4705 of 2017

and

CMP. No.22136 of 2017

Nagamalai (died)

1.K.P.Balakrishnan

2.N.Saraswati

3.N.Viswanathan

4.N.Devarajan

5.K.Kavitha

..Petitioners in
all C.R.Ps

Vs

1.Selvaraj

Mahudeswaran (died)

..Respondent in
all C.R.Ps

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COMMON PRAYER:- Civil Revisions Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal dated 16.11.2017 made in I.A.No.536 of 2017, I.A.No.534 of 2017 & I.A.No.535 of 2017 in O.S.No.33 of 2005, on the file of the Principal District Munsif, Tiruchengode, by allowing this Civil Revision Petition.

For Petitioners in all C.R.Ps
For Respondent in all C.R.Ps

:Mr.R.Marudhachalamurthy
:MR.S.Viswanathan
for M/S Dass & Viswa Associates

ORDER

The plaintiffs are the applicants who had filed the application to recall P.W.2 and produce additional documents. The trial Court had rejected the said applications on the ground that these documents are intended to fill up the lacuna in the evidence and that too, at a belated stage. Challenging the same, the present Civil Revisions have been filed.

2. The petitioners herein in their applications filed before the trial Court, had stated that these revenue documents were obtained from the Revenue Authority under Right To Information Act.

3. According to the learned counsel for the petitioners, these documents are public documents and were not in possession of the petitioners herein. In view of the stand taken by the respondent herein in his written statement denying the petitioners' right over the subject property, he was constrained to move the Revenue Authority and as soon as he had obtained all these public documents, he intended to produce the same before the Court. As such, it cannot be said that the petitioners herein, had not exercised due diligence and produced all these documents which were in his possession at the time of filing of the suit. In view of the

subsequent defence taken in the written statement, he had approached the Revenue Authority for getting these documents.

4. Further more, these documents would only help the trial Court to come to a just and fair conclusion. Though, I do not find any infirmity in the observations of the Court that the proceedings are being delayed, in view of the filing of these applications, after the trial had commenced. Such a situation could be cured by directing the trial Court to complete the trial within a stipulated time instead of rejecting the request made by the petitioners herein.

5. In the light of the above observations, the orders passed in I.A.No.536 of 2017, I.A.No.534 of 2017 & I.A.No.535 of 2017 are set aside. Consequently, the petitioners are permitted to recall P.W.2 for the purpose of letting in oral and documentary evidence. Such an exercise shall be completed within a period of one month from the date of receipt of a copy of this order. While marking these documents, it will be open to the respondent herein to raise his objection, if any. Consequently, connected Miscellaneous Petition is closed. No costs.

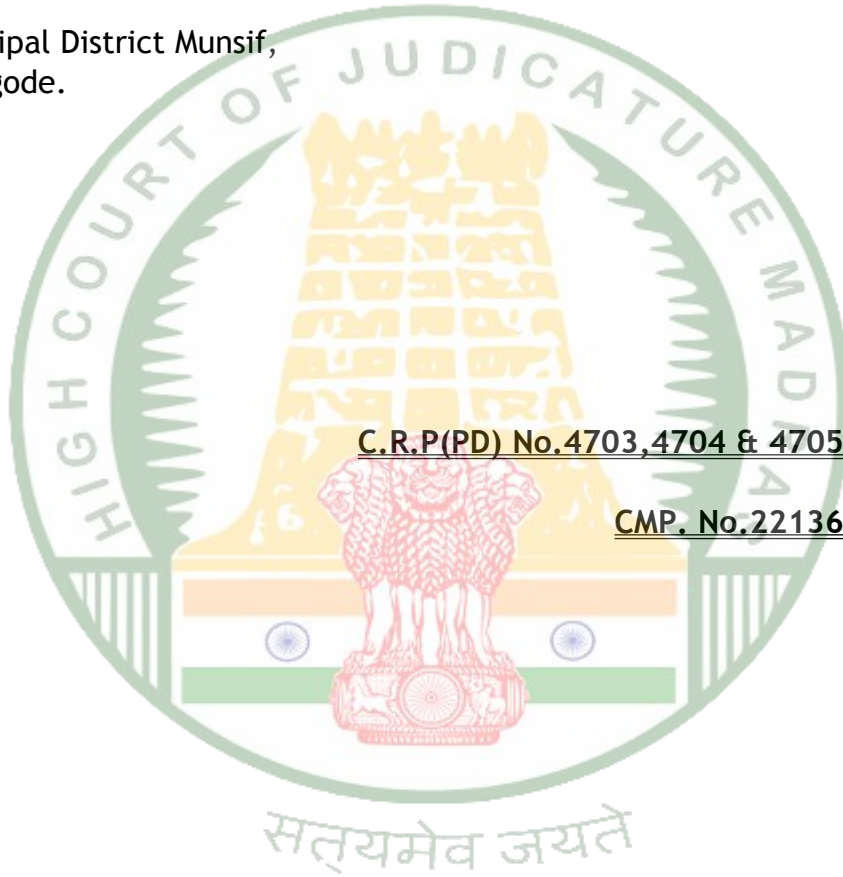
18.12.2018

Index : Yes/No
dh

M.S. RAMESH.J.,

dh

To
The Principal District Munsif,
Tiruchengode.



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